IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 639 OF 1994

Chintaman Shridhar Tamboli ..Appellant

versus

Union of India ..Respondents

Mr. Piyush Shah for the Appellant.

Mr. A. N. Samant for the Respondents.

CORAM : D. G. DESHPANDE,J.

DATE : 1ST FEBRUARY,2005

ORAL ORDER :

1. Heard counsel for the Appellant and the Respondents.

2. The claim of the appellant was dismissed by the Tribunal, firstly, for the reason that the appellant failed to prove that the goods i.e. pipes when despatched were in good condition. Secondly, he contended that as per the Judgment of this Court reported in **AIR 1969 Bombay 7 (V 56 C 2) Union of India, owning the South Eastern Rul. Admn. through its General Manager & Anr. vs. Radhakisan s/o. Ramnath Proprietor of Ramakrishna Ramnath & Anr.,** the burden was upon the railway to place all the

material on record and the forwarding note was not produced by the Railways. Counsel for the appellant contended that even the railway receipt does not appear to have been produced before the Tribunal. In view of this, he prays for remand of the matter. Prayer appears to be reasonable in the background. Therefore, I pass the following order :

ORDER

. The impugned order is set aside. The matter is remanded back to the Tribunal afresh for decision according to law after giving opportunity to the parties to produce the documents, prove them and to lead evidence. Parties will be at liberty to summon the witnesses. All the issues are kept open.

. Tribunal will decide and dispose of the matter within six months from the date of receipt of this order. Parties to appear before the Tribunal on 21.2.2005.

. Parties to act on an ordinary copy of this order duly authenticated by the Court Sheristedar.

1.02.2005 (D.G. DESHPANDE, J.)